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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,611	12/15/2005	Timo Flessner	LeA 36 225	6716
35969	7590	11/16/2007		
JEFFREY M. GREENMAN BAYER PHARMACEUTICALS CORPORATION 400 MORGAN LANE WEST HAVEN, CT 06516			EXAMINER CHANDRAKUMAR, NIZAL S	
			ART UNIT	PAPER NUMBER
			1625	
			MAIL DATE	DELIVERY MODE
			11/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/522,611

Applicant(s)

FLESSNER ET AL.

Examiner

Nizal S. Chandrakumar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-11 and 13-16 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

This application filed 12.15.2005 is a 371 of PCT/EP03/07588 07/14/2003. Claims 1-11, 13-16 are before the Examiner and subject to the following Election/restrictions.

***Election/Restrictions***

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group 1, claim(s) 1-10 (in part), drawn to benzofuran compounds of formula (I).

Group 2, claim(s) 1-10 (in part), drawn to benzothiophene compounds of formula (I).

Group 3, claim(s) 1-10 (in part), drawn to indole compounds of formula (I).

Group 4, claim(s) 1-10 (in part), drawn to furanopyridine compounds of formula (I) wherein ring B is pyrido.

Election of this group would necessitate further restrictions depending on the fusion of ring A and B.

Group 5, claim(s) 1-10 (in part), drawn to thienopyridine compounds of formula (I) wherein ring B is pyrido.

Election of this group would necessitate further restrictions depending on the fusion of ring A and B.

Group 6, claim(s) 1-10 (in part), drawn to aza-indole compounds of formula (I) wherein ring B is pyrido.

Election of this group would necessitate further restrictions depending on the fusion of ring A and B.

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Group 7, claim(s) 11, drawn to process of preparing benzofuran compounds of formula (I).

Group 8, claim(s) 11, drawn to process of preparing benzothiophene compounds of formula (I).

Group 9, claim(s) 11, drawn to process of preparing indole compounds of formula (I).

Group 10, claim(s) 11, drawn to process of preparing furanopyridine compounds of formula (I) wherein ring B is pyrido.

Election of this group would necessitate further restrictions depending on the fusion of ring A and B.

Group 11, claim(s) 11, drawn to process of preparing thienopyridine compounds of formula (I) wherein ring B is pyrido.

Election of this group would necessitate further restrictions depending on the fusion of ring A and B.

Group 12, claim(s) 11, drawn to process of preparing aza-indole compounds of formula (I) wherein ring B is pyrido.

Election of this group would necessitate further restrictions depending on the fusion of ring A and B.

Group 13, claim(s) 13-16 (in part), drawn to pharmaceutical method of using benzofuran compounds of formula (I).

Group 14, claim(s) 13-16 (in part), drawn to drawn to pharmaceutical method of using benzothiophene compounds of formula (I).

Group 15, claim(s) 13-16 (in part), drawn to drawn to pharmaceutical method of using indole compounds of formula (I).

Group 16, claim(s) 13-16 (in part), drawn to furanopyridine compounds of formula (I) wherein ring B is pyrido.

Election of this group would necessitate further restrictions depending on the fusion of ring A and B.

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Group 17, claim(s) 13-16 (in part), drawn to drawn to pharmaceutical method of using thienopyridine compounds of formula (I)

wherein ring B is pyrido.

Election of this group would necessitate further restrictions depending on the fusion of ring A and B.

Group 18, claim(s) 13-16 (in part), drawn to drawn to pharmaceutical method of using aza-indole compounds of formula (I)

wherein ring B is pyrido.

Election of this group would necessitate further restrictions depending on the fusion of ring A and B.

2. The inventions listed as Groups 1-18 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The common technical feature is aryl-amide group. This element cannot be a special technical feature under PCT Rule 13.2 because this element is shown in the prior art, see applicant provided reference WO 02/15662 A2.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction were not required; because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) **identification of the claims encompassing the elected invention.**

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out

supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nizal S. Chandrakumar whose telephone number is 517-272-6202. The examiner can normally be reached on 8.30 am - 5 pm Monday- Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached on 571-272-0867 or Primary Examiner D. Margaret Seaman can be reached at 571-272-0694. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Nizal S. Chandrakumar



D. MARGARET SEAMAN  
PRIMARY EXAMINER